

City of Burien

BURIEN PLANNING COMMISSION MEETING

October 23, 2007

7:00 p.m.

City Council Chambers

MINUTES

Planning Commission Members Present:

Janet Shull, Stacie Grage, Robert Simpson-Clark, Jon Newton, Michael Sumner

Absent:

Jim Clingan, Rebecca McInteer

Others Present:

Scott Greenberg, planning director

Roll Call

Chair Shull called the meeting to order at 7:06 p.m. Upon the call of the roll all commissioners were present with the exception of Commissioners Clingan and McInteer.

Agenda Confirmation

Motion to approve the agenda as printed was made by Commissioner Newton. Second was by Commissioner Simpson-Clark and the motion carried unanimously.

Public Comment – None

Approval of Minutes

Motion to approve deferring approval of the minutes until they are published was made by Commissioner Newton. Second was by Commissioner Sumner and the motion carried unanimously

Old Business

A. 2007 Zoning Code Amendments

Planning Director Scott Greenberg said the public hearing for the proposed amendments is scheduled for November 13.

– Urban Center Chapter

Mr. Greenberg explained that the proposal has to do with the 10-year multifamily tax abatement program. The state Legislature approved changes to the governing state law that local jurisdictions are required to incorporate.

Commissioner Simpson-Clark asked if the Burien area is regarded as a high-cost housing area. Mr. Greenberg said all of King County qualifies under the definition.

– Parking Lot Curbs Adjacent to Landscaping

Mr. Greenberg reminded the commissioners that the City has two different standards that could apply to the same geography. The commission previously proposed using the term “functionally equivalent structural barriers” to give the City the flexibility to accept something other than cast-in-place vertical concrete curbs.

– *Modification of Use or Site Plan*

Mr. Greenberg said the proposal would provide some discretion for the planning director to allow modification of a use or site plan approved through a Type I, Type II or Type III land use review process. The criteria are that the modification cannot violate any specific conditions of approval or applicable codes and ordinances. In addition, if the area devoted to the use or structure is proposed to change, it cannot change by more than 10 percent. If the area devoted to the use or structure is proposed to change by more than 10 percent, the director must determine that the change or alteration will not have significantly more or different impacts on the surrounding area. Mr. Greenberg agreed that it would be prudent to clarify the base against which the 10 percent is measured, which is the original approved use or structure size.

Mr. Greenberg clarified that in no instance will an expansion to a use or structure be allowed if it would not have been permitted originally. If a variance were granted to allow a building to be 37 feet high instead of 35 feet high as part of a specific condition of approval, a proposal to go to 42 feet high could not be approved in that it would violate the specific condition of approval. A proposal to increase to 32 feet height a structure approved for 30 feet in a zone that allows building heights up to 35 feet could be approved in that it would fit within the code and within the 10 percent limitation.

Commissioner Newton asked if a use or structure could be proposed to expand by 10 percent both vertically and horizontally. Mr. Greenberg said it could.

– *Compliance with Federal Law Regarding Religious Facilities*

Mr. Greenberg said the proposal is to treat religious facilities in most zones the same way community facilities, cultural facilities and government facilities are treated. Currently, five zones in the city do not allow religious facilities at all, which is the real problem. They are allowed in the Downtown Commercial zone, but there is a provision that says on Class A pedestrian-oriented streets and SW 153rd Street the use is not allowed at the street level, which the city attorney has said must be changed.

– *Undergrounding Utilities*

Mr. Greenberg explained that there are two provisions requiring the undergrounding of utilities. The recommendation is that the one housed in the Zoning Code be repealed in favor of the one in the right-of-way code, which is more comprehensive.

Commissioner Simpson-Clark suggested that it would make more sense to keep the provision in the right-of-way code.

Mr. Greenberg allowed because Burien is mostly built out, there can be overhead wires for blocks and blocks. One person may come in wanting to subdivide their property into two lots, and the requirement to underground can in some cases result in more poles and other issues. The City tries to get the property owner to instead sign a binding agreement to pay his or her fair share of the costs in the event the whole area undergrounds in the future.

– *Drive-Throughs in the Downtown Area*

Mr. Greenberg said there are two different options. One option is to allow drive-throughs throughout the downtown provided all applicable design standards are met. The commission previously discussed allowing them on 4th Avenue Southwest but not on Southwest 152nd Street.

Answering a question asked by Commissioner Newton, Mr. Greenberg said the drive-through for the Red Eye coffee stand is internal to the property and meets the intent of the provisions. If the stand were to propose being right up against the street and include a driveway off of 4th Avenue Southwest leading to the drive-through, it would not be allowed under the current code.

Commissioner Simpson-Clark proposed a third option that would void the interpretation involved with the move of Burger King and go back to the original language disallowing drive-throughs adjacent to 4th Avenue Southwest or Southwest 152nd Street in the downtown.

Commissioner Shull said as the downtown continues to grow the need to more closely regulate drive-throughs may migrate to include other streets.

Commissioner Simpson-Clark said code interpretations lead the public to conclude that enforcement of the codes is inconsistent. Standing with the original code language and rolling back the interpretation will assist the public in understanding that there has not been arbitrary or capricious code enforcement.

– Clarification of Building Height Limit Map

Mr. Greenberg said the proposal is to redraw the map to indicate that the line goes right down the centerline of the public right-of-way of Southwest 152nd Street.

– Sign Code Reader Board Restrictions

Mr. Greenberg said the City Council adopted a provision designed to restrict the number of reader boards in the city. However, the code as written is unenforceable from a First Amendment standpoint. The proposal is to repeal that section of the code.

Commissioner Simpson-Clark proposed clarifying in the code the difference between the various types of signs and the rate of change. Mr. Greenberg said that involves a different part of the code.

Answering a question asked by Commissioner Newton, Mr. Greenberg explained that the definition of a free-standing sign is any sign that is not attached to a building. The current code restricts the allowed messages on any sign located between a building and the front property line. It would have been better to specifically indicate in the code what constitutes a reader board.

Commissioner Simpson-Clark suggested the restriction on what can be said should be removed from the code, but the restriction on how often the messages can be changed should be retained.

Commissioner Newton asked why how often the message on a sign is changed should be an issue at all. Mr. Greenberg said his proposal is to get rid of the provision entirely.

Commissioner Simpson-Clark said the history of the provision stemmed from a group of volunteers from the community who developed a list of guidelines. There were several public hearings conducted. The consensus of the group was that the primary issue was competitive signage, and that it would not be in the interest of anyone to allow neighboring businesses to try to out-sign each other in order to be seen. There was agreement that everyone should just back off and limit the amount of signage. The committee chose to maintain parity and aesthetics by limiting sign size rather than sign quality. The alternative would have been to require quality, which would have been economically limiting for many.

Mr. Greenberg said sign size is regulated by another section of the code. He explained that every property or business has a maximum square footage of signage they can employ. In addition, there are two kinds of signs: changeable copy signs and changeable image signs. The former is a reader board or sign designed to allow the changing of copy through manual, mechanical or electrical means. If a changeable copy sign is part of a freestanding sign, it cannot exceed 50 percent of the total sign area of the sign. Electronic changeable copy signs also must comply with the requirements for changeable image signs. There can be only one changeable image sign per tenant space, they can be a maximum of eight square feet, and they count toward the total sign area allowed. Such signs must be oriented to pedestrians and on-site viewing only, are subject to maximum light levels, and the changeable images must dissolve over a period of not less than 10 seconds. Blinking and flashing lights are prohibited except for time and temperature readouts; the code defines what is meant by blinking and flashing.

– *Sign Code Special Event Signs*

Mr. Greenberg said the proposal is to codify what been the practice of the City for several years to give businesses some flexibility to use identification devices during large construction projects.

– *Elimination of the Development Agreement Requirement in NERA*

Mr. Greenberg said the recommendation of the commission regarding the proposal is contingent on council action regarding the Northeast Redevelopment Area.

– *Detached Accessory Dwelling Units*

Mr. Greenberg said the proposal involves a fairly simple amendment. Only one attached or detached ADU would be allowed per lot, and the one-and-a-half times minimum lot area requirement would be eliminated for detached ADUs.

With regard to whether or not there should be another amnesty period, Mr. Greenberg said the simplest approach would be to simply treat any nonconforming ADU the same as any other nonconforming use or structure; there is no reason to call them out separately. Where documentation can be produced to show that an ADU is legal, the ADU should be recognized by the City. By the same token, all nonconforming use restrictions should apply. In 2002 it was known that there were a fair number of ADUs that had been established illegally. The amnesty period provided the opportunity for property owners to come forward and get them legalized without having to meet all of the requirements. Enough time has passed, however, that another amnesty period would not be appropriate.

New Business

A. NERA Update

Mr. Greenberg noted that one of the amendments recommended by the commission was to allow retail uses in most of the Northeast Redevelopment Area. The package of Comprehensive Plan amendments was presented to the City Council on October 22, and the one related to NERA was the only one they had any questions about. Several councilmembers expressed concern about the possible impact on the downtown if big box retail uses are allowed in NERA, especially if the big box retailers sell a variety of goods.

Mr. Greenberg said he has been asked to come back with a report on how other communities are addressing big box retail. No vote to remand the issue to the Planning Commission was taken, but there was agreement the commission should be involved.

Commissioner Simpson-Clark said he doubted big box retail in NERA would be overly competitive to the smaller businesses in the downtown area.

Commissioner Sumner said he saw a situation in Covington where a large Safeway that included a pharmacy proved to be beneficial to the only other pharmacy in town. Everyone has benefited. Mr. Greenberg said small businesses have found that by finding a niche they can survive big box competition.

Mr. Greenberg said if the City were to take the simple approach of allowing retail uses in NERA but limit the size to 50,000 sq.ft., some desired uses may not be able to locate there as an unintended consequence.

Turning to the schedule, Mr. Greenberg proposed moving the November 27 commission meeting to November 20. He suggested the commission could make its recommendation to the council regarding the retail issue that night. The council could then discuss the Comprehensive Plan amendments on November 26 and vote on the package on December 3. There was consensus to plan in that direction. Chair Shull said she would not be able to attend.

Director's Report

Mr. Greenberg reported that through the end of September the City has issued permits for projects worth \$78 million, a record amount. Ninety-seven percent of the construction-related permits are being issued within the target goals. Of the permits that are eligible for issuance online, 25 percent are being issued electronically.

Adjournment

Motion to adjourn was made by Commissioner Grage. Second was by Commissioner Newton and the motion carried unanimously.

Chair Shull adjourned the meeting at 8:30 p.m.

Approved: _____

Janet Shull, chair
Planning Commission